

GOVERNMENT OF THE DISTRICT OF COLUMBIA**DEPARTMENT ON DISABILITY SERVICES**

The Director of the Department on Disability Services, pursuant to D.C. Official Code § 7-761.09 (2007 Supp.), hereby gives notice of the adoption of the following rulemaking. This rulemaking amends Title 29, Chapters 1 and 2 of the D.C. Municipal Regulations (DCMR), which govern the Department on Disability Services, Rehabilitation Services Administration (DDS/RSA).

This rulemaking clarifies the administrative review process and the payment of expenses for post-secondary education and training. This rulemaking is necessitated by an administrative ruling that requires DDS/RSA clarify immediately its regulations concerning its administrative review meeting process. This rulemaking also establishes that the administrative review meeting is a non-binding, non-adversarial component of the Agency's informal dispute resolution process.

In light of that ruling, DDS/RSA has amended its current regulations to expressly convey the intent of this process, which provides a non-binding and non-adversarial informal administrative review meeting process for reviewing service provision disputes before mediation and/or an impartial due process hearing. This rulemaking also clarifies rates DDS/RSA will pay when a DDS/RSA consumer chooses to attend a Washington, D.C. metropolitan private university rather than a public university located in the Washington, DC metropolitan area, which provides similar programs and supports. This rulemaking also adds a new section, which establishes mediation as a formal dispute resolution process for resolving determinations that affect the provision of vocational rehabilitation services.

These rules were previously published as a proposed rulemaking in the *D.C. Register* on March 12, 2010 (57 DCR 2058). No comments were received. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Title 29, Chapter 1 of the DCMR is amended to read as follows:

All references to the "Office of Fair Hearing" shall be replaced by "Office of Administrative Hearings," as prescribed by D.C. Official Code §§ 2-1831.02, 2-1831.03, and 7-761.08 (b).

All references to the "Vocational Rehabilitation Services Program" shall be replaced by "Vocational Rehabilitation Services Division."

All references to "administrative review" shall be replaced by "informal administrative review."

All references to "working days" shall be replaced by "business days."

29-122. POST-SECONDARY EDUCATION AND TRAINING.

Title 29, Chapter 1, Section 122.3 will be amended to read:

- 122.3 The Rehabilitation Services Administration shall pay for post-secondary tuition costs in accordance with §§ 122.4, 122.5, and 122.6, only if the academic program(s) is necessary to achieve the consumer's vocational goal.

Title 29, Chapter 1, Section 122.4 will be amended to read:

- 122.4 If a public post-secondary institution ("public institution") located in the Washington, D.C. Metropolitan Area ("Area") offers an academic program necessary to achieve the consumer's vocational goal and the consumer chooses to attend that institution, the Rehabilitation Services Administration shall pay the published tuition rate of that particular public institution;

Title 29, Chapter 1, Section 122.5 will be amended to read:

- 122.5 If a public institution located in the Area offers an academic program necessary to achieve the consumer's vocational goal, but the consumer chooses to attend a private post-secondary institution ("private institution") that is also located in the Area, the Rehabilitation Services Administration shall pay the published tuition rate of the University of the District of Columbia;

Title 29, Chapter 1, Section 122.6 will be amended to read:

- 122.6 If either a public or private institution located in the Area offers an academic program necessary to achieve the consumer's vocational goal, but the consumer chooses to attend a post-secondary institution (whether public or private) that is located outside of the Area, the Rehabilitation Services Administration shall pay no more than:
- (a) Three times the tuition rate published by the University of the District of Columbia for the applicable number of credit hours and academic term; or
 - (b) The published tuition rate for the necessary training program that is available within the Area if the training program is not based on credit hours.

29-123. THE ENTREPRENEURIAL PROGRAM.

29-124. CLIENT PARTICIPATION IN THE COST OF SERVICES.

29-125. OWNERSHIP OF GOODS

29-126. ORDER OF SELECTION OF SERVICES.

29-127. TRANSITION SERVICES FOR SECONDARY SCHOOL STUDENTS.

Title 29, Chapter 1, Section 135 will amend its Section Heading to read:

29-135. VOCATIONAL REHABILITATION (VR) DUE PROCESS SCOPE AND PROCEDURES

Title 29, Chapter 1, Section 135.1 will be amended to read:

- 135.1 The purpose of these regulations is to establish procedures pursuant to the Rehabilitation Act of 1973, as amended, and 34 C.F.R. § 361.57 which provide an applicant or consumer procedures for resolving disagreements with any determination concerning the furnishing or denial of vocational rehabilitation services.

Title 29, Chapter 1, Section 135.2 will be amended to read:

- 135.2 An applicant or consumer of the Vocational Rehabilitation Services Division (VRSD) or Division of Services for the Blind (DSB), who is dissatisfied with any determination concerning the furnishing or denial of vocational rehabilitation services has the right to pursue any or all of the following options as provided in 34 C.F.R. § 361.57:
- (a) Informal administrative review meeting with the Chief of VRDS or Chief of DSB;
 - (b) Mediation, and;
 - (c) Impartial due process hearing before the D.C. Office of Administrative Hearings.

Title 29, Chapter 1, Section 135.3 will be amended to read:

- 135.3 A service determination dispute may be resolved at any level within the appeal process. The appeal process is initiated when an applicant or consumer requests an informal administrative review meeting. However, an applicant or consumer is not precluded from beginning his or her appeal by requesting mediation or requesting an impartial due process hearing.

Repeal Title 29, Chapter 1, Section 135.4 in its entirety.

Title 29, Chapter 1, Section 136 will amend its Section Heading to read:

29-136. NOTICE AND RIGHT TO DUE PROCESS REMEDIES

Title 29, Chapter 1, Section 136.1 will be amended to read:

- 136.1 Pursuant to 34 C.F.R. § 361.57, each applicant or consumer of VRSD or DSB shall be informed in writing, that he or she is entitled to each of the following:

- (a) The right to request an informal administrative review meeting, mediation or impartial due process hearing;
- (b) An informal administrative review meeting, mediation or impartial due process hearing;
- (c) The availability of the Client Assistance Program ("CAP") to assist the applicant or consumer during the informal administrative review meeting, mediation or impartial due process hearing;
- (d) The right to request a qualified interpreter, fluent in the primary language (including sign language) of the applicant/consumer or other methods of communication used by an individual due to his or her disability; and
- (e) The right to request auxiliary aids to ensure that communications with individuals with hearing, vision, or speech impairments are as effective as communications with others. "Auxiliary aids" include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDD's), videotext displays, readers, taped texts, brailled materials, and large print materials.

Title 29, Chapter 1, is amended to add new section 136.2, to read as follows:

- 136.2 An applicant, a consumer or his or her authorized representative shall receive written notification of his or her due process remedies, at the following times:
- (a) During the Application process;
 - (b) Assignment to an order of selection category;
 - (c) Development of an IPE; or
 - (d) Upon reduction, suspension, and/or termination (including case closure) of any determination concerning the furnishing or denial of vocational rehabilitation services.

Title 29, Chapter 1, Section 137 will amend its Section Heading to read:

29-137. INFORMAL ADMINISTRATIVE REVIEW MEETING

Title 29, Chapter 1, Section 137.1 will be amended to read:

- 137.1 An informal administrative review meeting is a non-binding and non-adversarial informal dispute resolution process pursuant to 34 C.F.R. § 361.57 (c). The informal administrative review meeting process provides an applicant or consumer an opportunity to meet with the Chief of VRSD or the Chief of DSB in an effort to expeditiously resolve a complaint he or she may have about any determination concerning the furnishing or denial of vocational rehabilitation services. The informal administrative review meeting may involve fact gathering,

interviews and negotiation. The informal administrative review meeting is optional and voluntary, and will not deny or delay an applicant or consumer from pursuing any other due process remedy guaranteed by the Rehabilitation Act of 1973, as amended.

Repeal Title 29, Chapter 1, Section 137.2 in its entirety.

Title 29, Chapter 1, Section 138 will amend its Section Heading to read:

29-138. REQUEST FOR AN INFORMAL ADMINISTRATIVE REVIEW MEETING/
TIMELINESS

Title 29, Chapter 1, Section 138.1 will be amended to read:

138.1 A request for an informal administrative review meeting must be submitted in writing, within ten (10) business days of the determination that affected the provision of vocational rehabilitation services. The time limits in this section may be extended by the Chief, Office of Quality Assurance and Federal Compliance, when good cause is shown by one party or at the request of both parties. This request must be addressed to:

Office of Quality Assurance and Federal Compliance
Attention: Chief
Department on Disability Services, Rehabilitation Services Administration
1125 15th Street, NW, 9th Floor
Washington, D.C. 20005
(202) 442-8670 (Voice or Relay)

Title 29, Chapter 1, Section 138.2 will be amended to read:

138.2 Within five (5) business days after the request is received, the Chief of the Office of Quality Assurance and Federal Compliance ("OQAFC") will do the following:

- (a) Forward the request to the Chief of the VRSD or Chief of the DSB; and
- (b) Send a written notification to the applicant/client stating the date, time and location of the informal administrative review meeting. Notification shall be in an Americans with Disabilities Act (ADA) compliant format, including: (1) in the medium of the applicant or consumer's choice, including large print, Braille, tape, disk; and (2) provided via e-mail and/or U.S. Priority Mail with Delivery Confirmation requested.

Title 29, Chapter 1, Section 138.3 will be amended to read:

138.3 (a) Within five (5) business days of receiving the request from the Chief of

OQAFC, the Chief of VRSD or Chief of DSB will personally meet with the applicant, consumer and his or her authorized representative, unless such meeting is inconvenient for both parties and both parties record this inconvenience in writing. If both parties are unable to meet in person, they will participate in a telephonic conference not later than five (5) business days after receipt of the request from the Chief of OQAFC; and

- (b) The Chief of VRSD or Chief of DSB will report the outcome of the informal administrative review to the Chief of OQAFC, no later than five (5) business days following the conclusion of the meeting.

Title 29, Chapter 1, is amended to add new section 138.4 to read as follows:

- 138.4
- (a) If the applicant, consumer, or his or her authorized representative and the VRSD/DSB Chief successfully resolve the issue(s) addressed during the informal administrative review meeting, the Chief of OQAFC will place a written note in the applicant or consumer's file noting the vocational rehabilitation counselor will implement the agreed upon resolution within ten (10) business days, absent any unforeseen circumstances outside of the counselor's immediate control;
 - (b) If the applicant, consumer, or his or her authorized representative and the VRSD/DSB Chief are unable to resolve the issue(s) addressed during the informal administrative review meeting, the Chief of OQAFC shall notify the applicant or consumer in writing of his/her right to request mediation and/or an impartial due process hearing, in accordance with 34 CFR § 361.57, within five (5) business days of receiving notification of the outcome from the Chief of VRSD or Chief of DSB; and
 - (c) Notification shall be in an Americans with Disabilities Act (ADA) compliant format, including: (1) in the medium of the applicant or consumer's choice, including large print, Braille, tape, disk; and (2) provided via e-mail and/or U.S. Priority Mail with Delivery Confirmation requested.

Title 29, Chapter 1, Section 139 will amend its Section Heading to read:

29-139. MEDIATION PROCESS

Title 29, Chapter 1, Section 139.1 will be amended to read:

- 139.1
- The Administration provides applicants/clients the voluntary option to request mediation, a formal dispute resolution process mandated by 34 C.F.R. § 361.57. Mediation is available whenever there is a dispute about services. Mediation is facilitated by an impartial qualified mediator and relies upon the good faith efforts

of all interested parties to communicate in a productive manner to reach a collaborative agreement as to how the dispute should be resolved.

Title 29, Chapter 1, is amended to add new section 139.2 to read as follows:

- 139.2 Mediation does not involve findings of facts or the weighing of evidence, similar to a formal, impartial due process hearing. Mediation is a voluntary process and does not affect the applicant's/client's right to request an impartial due process hearing. In the event mediation is concluded without a resolution, detailed in a written mediation agreement, either party may pursue resolution through an impartial due process hearing.

Title 29, Chapter 1, Section 140 will amend its Section Heading to read:

29-140. RIGHT TO MEDIATION

Title 29, Chapter 1, Section 140.1 will be amended to read:

- 140.1 Pursuant to the Rehabilitation Act of 1973, as amended, an applicant or consumer who is dissatisfied with any determination concerning the furnishing or denial of vocational rehabilitation services has the right to pursue mediation prior to pursuing an impartial due process hearing.

Title 29, Chapter 1, is amended to add new section 140.2 to read as follows:

- 140.2 Mediation is voluntary for both parties and therefore, at any time during the mediation process, either party or the mediator may elect to terminate the mediation.

Title 29, Chapter 1, Section 141 will amend its Section Heading to read:

29-141. REQUEST FOR MEDIATION/TIMELINESS/SCHEDULING

Title 29, Chapter 1, Section 141.1 will be amended to read:

- 141.1 A request for mediation must be submitted in writing in a timely manner so the mediation process can be conducted within a 60-day time period, and does not delay completion of an impartial due process hearing. This request must be addressed to:

Office of Quality Assurance and Federal Compliance
Attention: Chief
Department on Disability Services, Rehabilitation Services Administration
1125 15th Street, NW, 9th Floor
Washington, D.C. 20005
(202) 442-8670 (Voice or Relay)

Title 29, Chapter 1, is amended to add new section 141.2 to read as follows:

141.2 Notification of the scheduling and location of the mediation shall be made in writing and/or in the consumer's preferred format in accordance with the Americans with Disabilities Act (Act).

Title 29, Chapter 1, is amended to add new section 141.3 to read as follows:

141.3 The time limits in this section may be extended by the Chief, Office of Quality Assurance and Federal Compliance, when good cause is shown by one party or at the request of both parties.

Repeal Title 29, Chapter 1, Sections 142 through 144 in their entirety.

Reserve Title 29, Chapter 1, Sections 142 through 144.

29-199. DEFINITIONS.

Title 29, Chapter 1, Section 199 will amend the definition of "Applicant" to read:

Applicant – an individual who submits an application for vocational rehabilitation services in accordance with 34 C.F.R. § 361.41 (b) (2).

Title 29, Chapter 1, Section 199 will amend the definition "Client Services Division" and replace it with "Vocational Rehabilitation Services Division."

Title 29, Chapter 1, Section 199 will amend the definition of "Vocational Rehabilitation Services Division" to read:

Vocational Rehabilitation Services Division – a division within the Department on Disability Services, Rehabilitation Services Administration, which includes vocational rehabilitation services, supported employment, and independent living.

Title 29, Chapter, 1, Section 199 is amended to add the following definitions:

Administration or Rehabilitation Services Administration (DDS/RSA) – the District of Columbia Department on Disability Services, Rehabilitation Services Administration.

Auxiliary aids and services includes—

(1) Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's),

videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, brail materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

Client or Consumer – an individual who has submitted an application pursuant to 34 C.F.R. § 361.41 (b) (2), and who has satisfied the eligibility requirements under 34 C.F.R. § 361.42 (a) (1), (a) (3) or 34 C.F.R. § 361.42 (b).

Division of Services for the Blind - a division within the Department on Disability Services, Rehabilitation Services Administration, which provides vocational rehabilitation and entrepreneurial services to blind and sight-impaired individuals.

Due Process Remedies – the collective name for the rights/procedures outlined in Chapter 1 of this Title.

Informal administrative review meeting is an optional first step informal nonbinding, non-adversarial process that the Department on Disability Services/Rehabilitation Services Administration offers to individuals to resolve disputes about any determination concerning the furnishing or denial of vocational rehabilitation services. The applicant/client meets with the Chief of VRSD or Chief of DSB to attempt resolution through interviews, negotiation, and document review.

Title 29, Chapter 1, Section 199 will amend the definition of “Washington D.C. Metropolitan Area” to read:

Washington D.C. Metropolitan Area – for purposes of receiving services under this Chapter, the Washington D.C. Metropolitan Area is defined as areas in the District of Columbia, Maryland and Virginia accessible by public transportation. By definition this includes the principal cities of: Washington, DC; Arlington, VA; Alexandria, VA; Reston, VA; Bethesda, MD; Frederick, MD; Rockville, MD; Gaithersburg, MD, Largo, MD

Title 29, Chapter 2 of the DCMR is amended to read as follows:

All references to “DHS” shall be replaced by “DDS.”

Title 29, Chapter 2, Section 218 will amend its Section Heading to read:

29-218. DUE PROCESS SCOPE AND PROCEDURES FOR BLIND VENDORS AND
RSVFP TRAINEES RECEIVING VOCATIONAL REHABILITATION SERVICES

Title 29, Chapter 2, Section 218.1 will be amended to read:

- 218.1 The purpose of these regulations is to establish procedures pursuant to the Rehabilitation Act of 1973, as amended, and 34 C.F.R. § 395.11, which provide vendors and/or RSVFP trainees the opportunity to resolve disagreements with any determination concerning the furnishing or denial of vocational rehabilitation services offered in connection with the Randolph-Sheppard Vending Facility Program (RSVFP).

Title 29, Chapter 2, Section 218.2 will be amended to read:

- 218.2 (a) A Vendor or RSVFP trainee who is dissatisfied with any determination concerning the furnishing or denial of vocational rehabilitation services or training, provided under the Rehabilitation Act of 1973 and/or 34 C.F.R. § 395.11, has the right to pursue any or all of the following options provided in 34 C.F.R. § 361.57:
- (1) Informal administrative review meeting with the Chief of the Division of Services for the Blind (DSB);
 - (2) Mediation; and
 - (3) Impartial due process hearing before the D.C. Office of Administrative Hearings.

Title 29, Chapter 2, Section 218.3 will be amended to read:

- 218.3 A service determination dispute regarding vocational rehabilitation services may be resolved at any level within the appeals process. The appeal process is initiated when a vendor or RSVFP trainee requests an informal administrative review meeting. However, a vendor or RSVFP trainee is not precluded from beginning his or her appeal by requesting mediation or requesting an impartial due process hearing, as a means to resolve a determination that affects the provision of vocational rehabilitation services.

Title 29, Chapter 2, Section 219 will amend its Section Heading to read:

29-219. NOTICE AND RIGHT TO DUE PROCESS REMEDIES FOR BLIND VENDORS
AND RSVFP TRAINEES RECEIVING VOCATIONAL REHABILITATION
SERVICES

Title 29, Chapter 2, Section 219.1 will be amended to read:

219.1 Pursuant to 34 C.F.R. § 361.57, each Vendor or RSVFP trainee shall be informed in writing, that he or she has the right to the following:

- (a) To request an informal administrative review meeting, mediation or impartial due process hearing;
- (b) To request an informal administrative review meeting, mediation or impartial due process hearing;
- (c) The availability of the Client Assistance Program (“CAP”) to assist the applicant or consumer during the informal administrative review meeting, mediation or impartial due process hearing;
- (d) To request a qualified interpreter, fluent in the primary language (including sign language) of the applicant/consumer or other methods of communication used by an individual due to his or her disability; and
- (e) To request auxiliary aids to ensure that communications with individuals with hearing, vision, or speech impairments are as effective as communications with others. "Auxiliary aids" include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDD's), videotext displays, readers, taped texts, brailled materials, and large print materials.

Title 29, Chapter 2, is amended to add new section 219.2, to read as follows:

219.2 A Vendor, RSVFP trainee, or his or her authorized representative shall receive written notification of his or her due process remedies, at the following times as applicable:

- (a) At the time of application;
- (b) Assignment to an order of selection category;
- (c) Development of an IPE;
- (d) Upon reduction, suspension, and/or termination (including case closure) of any determination concerning the furnishing or denial of vocational rehabilitation services; or
- (e) At the time of licensure.

Title 29, Chapter 2, Section 220 will amend its Section Heading to read:

29-220. INFORMAL ADMINISTRATIVE REVIEW MEETING

Title 29, Chapter 2, Section 220.1 will be amended to read:

- 220.1 An informal administrative review meeting is a non-binding and non-adversarial informal dispute resolution process pursuant to 34 C.F.R. § 361.57 (c). The informal administrative review meeting process provides a Vendor or RSVFP trainee an opportunity to meet with the Chief of DSB in an effort to expeditiously resolve a complaint he or she may have about any determination concerning the furnishing or denial of vocational rehabilitation services. The informal administrative review meeting may involve fact gathering, interviews and negotiation. The informal administrative review meeting is optional and voluntary, and will not deny or delay a Vendor or RSVFP trainee from pursuing an impartial due process hearing, guaranteed by 34 C.F.R. § 361.57.

Repeal Title 29, Chapter 2, Section 220.2 and 220.3 in their entirety.

Title 29, Chapter 2, Section 221 will amend its Section Heading to read:

29-221. REQUEST FOR INFORMAL ADMINISTRATIVE REVIEW MEETING/NOTICE
TIMELINESS

Title 29, Chapter 2, Section 221.1 will be amended to read:

- 221.1 A request for an informal administrative review meeting must be submitted in writing, within ten (10) business days, of the determination that affected the provision of vocational rehabilitation services. The time limits in this section may be extended by the Chief, Office of Quality Assurance and Federal Compliance, when good cause is shown by one party or at the request of both parties. This request must be addressed to:

Office of Quality Assurance and Federal Compliance
Attention: Chief
Department on Disability Services, Rehabilitation Services Administration
1125 15th Street, NW, 9th Floor
Washington, D.C. 20005
(202) 442-8670 (Voice or Relay)

Title 29, Chapter 2, Section 221.2 will be amended to read:

- 221.2 Within five (5) business days after the request is received, the Chief of the Office of Quality Assurance and Federal Compliance ("OQAFC") will do the following:
- (a) Forward the request to the Chief of the DSB; and
 - (b) Send a written notification to the Vendor/RSVFP trainee stating the date, time and location of the informal administrative review meeting. Notification shall be in an Americans with Disabilities Act (ADA) compliant format, including:
 - (1) in the medium of the applicant or consumer's choice, including large print,

Braille, tape, disk; and (2) provided via e-mail and/or U.S. Priority Mail with Delivery Confirmation requested.

Repeal Title 29, Chapter 2, Section 221.3 in its entirety.

Title 29, Chapter 2, Section 222 will amend its Section Heading to read:

29-222 INFORMAL ADMINISTRATIVE REVIEW MEETING PROCESS

Title 29, Chapter 2, Section 222.1 will be amended to read:

- 222.1
- (a) Within five (5) business days of receiving the request from the Chief of OQAF, the Chief of DSB will personally meet with the vendor, RSVFP trainee and his or her authorized representative, unless such meeting is inconvenient for both parties and both parties record this inconvenience in writing. If both parties are unable to meet in person, they will participate in a telephonic conference not later than five (5) business days after receipt of the request from the Chief of OQAF; and
 - (b) The Chief of DSB will report the outcome of the informal administrative review to the Chief of OQAF, no later than five (5) business days following the conclusion of the meeting.

Title 29, Chapter 2, is amended to add new section 222.2 to read as follows:

- 222.2
- (a) If the Vendor, RSVFP trainee, or his or her authorized representative and the DSB Chief successfully resolve the issue(s) addressed during the informal administrative review meeting, the Chief of OQAF will place a written note in the vendor or RSVFP trainee's file noting that the vocational rehabilitation counselor will implement the agreed upon resolution within ten (10) business days, absent any unforeseen circumstances outside of the counselor's immediate control;
 - (b) If the Vendor, RSVFP trainee, or his or her authorized representative and the DSB Chief are unable to resolve the issue(s) addressed during the informal administrative review meeting, the Chief of OQAF shall notify the vendor/RSVFP trainee in writing of his/her right to request an impartial due process hearing, in accordance with 34 CFR § 361.57, within five (5) business days of receiving notification of the outcome from the Chief of DSB; and
 - (c) Notification shall be in an Americans with Disabilities Act (ADA) compliant format, including: (1) in the medium of the applicant or consumer's choice, including large print, Braille, tape, disk; and (2) provided via e-mail and/or U.S. Priority Mail with Delivery Confirmation requested.

Title 29, Chapter 2, Section 223 will amend its Section Heading to read:

29-223. MEDIATION PROCESS FOR BLIND VENDORS AND RSVFP TRAINEES
RECEIVING VOCATIONAL REHABILITATION SERVICES

Title 29, Chapter 2, Section 223.1 will be amended to read:

223.1 The Administration provides vendors or RSVFP trainees the voluntary option to request mediation, a formal dispute resolution process mandated by 34 C.F.R. § 361.57. Mediation is available whenever there is a dispute about vocational rehabilitation services pursuant to the Rehabilitation Act of 1973, and 34 C.F.R. § 395.11. Mediation is facilitated by an impartial qualified mediator and relies upon the good faith efforts of all interested parties to communicate in a productive manner to reach a collaborative agreement as to how the dispute should be resolved.

Title 29, Chapter 2, is amended to add new section 223.2 to read as follows:

223.2 Mediation does not involve findings of facts or the weighing of evidence, similar to a formal, impartial due process hearing. Mediation is a voluntary process and does not affect the vendor's/RSVFP trainee's right to request an impartial due process hearing. In the event mediation is concluded without a resolution, detailed in a written mediation agreement, either party may pursue resolution through an impartial due process hearing.

Title 29, Chapter 2, Section 224 will amend its Section Heading to read:

29-224. RIGHT TO MEDIATION

Title 29, Chapter 2, Section 224.1 will be amended to read:

224.1 Pursuant to the Rehabilitation Act of 1973, as amended, a Vendor or RSVFP trainee, who is dissatisfied with any determination concerning the furnishing or denial of vocational rehabilitation services, has the right to pursue mediation prior to pursuing an impartial due process hearing.

Title 29, Chapter 2, is amended to add new section 224.2 to read as follows:

224.2 Mediation is voluntary for both parties and therefore, at any time during the mediation process, either party or the mediator may elect to terminate the mediation.

Title 29, Chapter 2, Section 225 will amend its Section Heading to read:

29-225. REQUEST FOR MEDIATION / TIMELINESS/SCHEDULING

Title 29, Chapter 2, Section 225.1 will be amended to read:

- 225.1 A request for mediation must be submitted in writing in a timely manner so the mediation process is conducted within a 60-day time period, and does not delay completion of an impartial due process hearing. This request must be addressed to:

Office of Quality Assurance and Federal Compliance
Attention: Chief
Department on Disability Services, Rehabilitation Services Administration
1125 15th Street, NW, 9th Floor
Washington, D.C. 20005
(202) 442-8670 (Voice or Relay)

Title 29, Chapter 2, is amended to add new section 225.2 to read as follows:

- 225.2 Notification of the scheduling and location of the mediation shall be made in writing and/or in the consumer's preferred format in accordance with the Americans with Disabilities Act (Act).

Title 29, Chapter 2, is amended to add new section 225.3 to read as follows:

- 225.3 The time limits in this section may be extended by the Chief, Office of Quality Assurance and Federal Compliance, when good cause is shown by one party or at the request of both parties.

Repeal Title 29, Sections 226 through 227 in their entirety.**Reserve Title 29, Sections 226 through 227.**

29-299. DEFINITIONS

Title 29, Chapter 2, Section 299 will amend the definition of "Administration" to read:

Administration – the District of Columbia Department on Disability Services, Rehabilitation Services Administration (DDS/RSA). The Rehabilitation Services Administration has been designated as the State Licensing Agency (SLA) for the District of Columbia, responsible for administering the Randolph-Sheppard Vending Facilities Program (RSVFP).

Title 29, Chapter 2, Section 299 will amend the definition of "Department or DHS" to read:

Department – the District of Columbia Department on Disability Services (DDS).

Title 29, Chapter 2, Section 299 will amend the definition of "Director" to read:

Director – the Director of the District of Columbia Department on Disability Services or the Director’s designee.

Title 29, Chapter 2, Section 299 will strike the definition of “Hearing Examiner” in its entirety.

Title 29, Chapter 2, Section 299 is amended to add the following definitions:

Auxiliary aids and services includes—

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

Division of Services for the Blind - a division within the Department on Disability Services, Rehabilitation Services Administration, which provides vocational rehabilitation and entrepreneurial services to blind and sight-impaired individuals.

Due Process Remedies – the collective name for the rights/procedures outlined in Chapter 2 of this Title.

Informal administrative review meeting is an optional first step informal nonbinding, non-adversarial process that the Department on Disability Services/Rehabilitation Services Administration offers to individuals to resolve disputes about any determination concerning the furnishing or denial of vocational rehabilitation services. The vendor or RSVFP trainee meets with the Chief of DSB to attempt resolution through interviews, negotiation, and document review.

Randolph-Sheppard Vending Facilities Program (RSVFP) – the program which licenses blind vendors and provides ongoing support services, in accordance with the Randolph-Sheppard Vending Stand Act and 34 C.F.R. § 395.7.

RSVFP Trainee – an individual who:

- (a) is not a licensed vendor pursuant to the Randolph-Sheppard Vending Stand Act; and
- (b) is receiving vocational rehabilitation services / training pursuant to the Rehabilitation Act of 1973, and 34 C.F.R. § 395.11;

State Licensing Agency – the State Agency designated by the Secretary, pursuant to 34 C.F.R. § 395 *et seq.*, to issue licenses to blind persons for the operation of vending facilities on Federal and other property.